

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

ROBERT E. DENK,)
)
)
Plaintiff,)
)
v.) Case No. 05-4083-CV-C-NKL
)
)
JO ANNE B. BARNHART,)
Commissioner of Social Security,)
)
Defendant.)

ORDER

Pending before the Court is Robert Denk's ("Denk") Motion for Attorney's Fees Under the Equal Access to Justice Act ("EAJA") [Doc. # 15]. For the reasons set forth below, the Court grants Denk's Motion.

In an Order dated November 8, 2005, the Court reversed the decision of the ALJ and ordered the Commissioner to award Denk disability benefits. Denk subsequently filed his pending Motion wherein he requested attorney's fees. Pursuant to 28 U.S.C. § 2412, the Court may award reasonable attorney's fees to the prevailing party in any civil action brought against any official of the United States acting in his or her official capacity. The parties agree that Denk's attorney is entitled to \$4,500.00 in fees. After consideration, the Court finds that the fees agreed to by the parties are reasonable.

In addition, Denk requested reimbursement for costs in the amount of \$150.00 for the filing fee. The filing fee is a cost which is distinguished from an expense under the EAJA. 28 U.S.C. § 2412(a). Denk should be compensated for the filing fee of \$150.00

from the Judgment Fund administered by the United States Treasury pursuant to 31 U.S.C. § 1304.

Accordingly, it is hereby

ORDERED that Denk's Motion for Attorney's Fees [Doc. # 15] is GRANTED.

Denk's attorney is awarded \$4,500.00 in attorneys' fees and \$150.00 for the filing fee, both of which shall be made payable to Bergmanis & McDuffey, L.L.C., attorney for Denk.

s/ Nanette K. Laughrey
NANETTE K. LAUGHREY
United States District Judge

Dated: December 22, 2005
Jefferson City, Missouri